

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12115 of 1994

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

RAMPIARE PUNWASI PARMAR

Versus

INSPECTOR GENERAL OF PRISONS

Appearance:

1. Special Civil Application No. 12115 of 1994
MR IS SUPEHIA for Petitioner No. 1
Mrs. Manisha L. Shah, AGP for Respondent No. 1
-

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 20/10/2004

ORAL JUDGEMENT

1. The petitioner by way of the present writ
petition under Article 226 of the Constitution of India
challenges the order of suspension dated 14th October

1994 passed by the respondent, on the basis of the First Information Report, being C.R. No.I-224 of 1994, registered against the petitioner on 24th September 1994 at Raopura Police Station, Baroda, for the offences punishable under Sections 66(1)(b) and 85(1)(3) of the Bombay Prohibition Act, The basis of the order of suspension is registration of the aforesaid First Information Report. The petitioner challenges the said order on the ground that the conditions laid down in the Notification dated 21st August 1985 issued by the Finance Department under the provisions of BCSR are not fulfilled. The learned advocate for the petitioner has relied upon paragraphs 1 and 2 of the said Notification wherein it is stated that the suspension can be resorted to only if the delinquent has been involved in a grave misconduct or has committed serious offence and on the basis of the evidence available, there is a prima facie case for his dismissal, removal or compulsory retirement and further that his presence in the office is likely to hamper the inquiry or investigation or to afford opportunity for interference with the witnesses or tampering with the evidence. The learned advocate for the petitioner has submitted that the First Information Report registered against the petitioner is totally false, frivolous, and baseless and, according to the petitioner, he has not misconducted himself. The learned advocate for the petitioner has submitted that the petitioner, who is Hawaldar in the Jail Department and a non-gazetted government servant, could not have been placed under suspension without prior approval of the Secretary of the Department concerned.

2. By order dated 28th October 1994, the Court issued Rule and granted interim relief in favour of the petitioner.

3. No affidavit-in-reply is filed and the order of suspension has remained stayed for a period of about ten years and, in the meanwhile, the petitioner has performed his duties and no other misconduct seems to have been brought to the notice of this Court during the period of past ten years.

4. In the facts and circumstances of the case, when the order of suspension is stayed by this Court and the petitioner was allowed to perform his duties, it has been imperative to continue the interim relief till the outcome of the criminal proceeding initiated by the prosecution agency, and, thereafter, it is open for the respondent-Authority to take appropriate action in accordance with law.

5. Accordingly, this petition is disposed of with a direction that the operation of the suspension order dated 14th October 1994 shall remain stayed till the final outcome of the criminal case (Annexure "A") initiated against the petitioner and, thereafter, it is open to the respondent to pass appropriate orders in accordance with law. Rule is made absolute to the above extent with order as to costs.

(Anant S. Dave, J.)

(swamy)